

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/NFCOM/C/2020/690921**
CIC/NFCOM/C/2020/690922

Shri Samir Sardana

...
अपीलकर्ता/Complainant

VERSUS/बनाम

PIO, Department of Atomic Energy
Hyderabad

...प्रतिवादीगण /Respondent

Date of Hearing : 05.09.2022

Date of Decision : 07.09.2022

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 nd Appeal received on
690921	Nil	29.09.2020	05.10.2020	19.11.2020	29.10.2020
690922	Nil	29.09.2020	05.10.2020	-	29.10.2020

Information sought and background of the case:

(1) CIC/NFCOM/C/2020/690921

The Complainant filed an RTI application dated nil seeking information in respect of the Frauds, Security Expenses, Financial Statements, IAEA, Imported Uranium and Trail of usage of Imported content etc.

Frauds

- PIO to provide the number and aggregate value of frauds inflicted on NFC from FY 2011 to FY 2020,as under:
 - Year,Number,Aggregate Fraud Value
- PIO to provide the nature of frauds inflicted on NFC from FY 2011 to FY 2020,as under:
 - Year , Name of Person/Entity involved,Nature of Fraud (Accounting,Purchase, Tenders, Contracts,Projects etc.)

Security Expenses

- PIO to provide the details of the security expense from FY 2015 to FY 2019 , as under:
 - Year,Nature of expense (CISF etc.,contractors,surveillance,alarm systems,electronic security,cyber security,IT Security,Transmission Security,maintenance of security assets, cost of military deployments, etc.)
- PIO to provide the details of the capital expenditure on security from FY 2015 to FY 2019,as under:
 - Year,Amount,Nature of asset,Name of Vendor
- PIO to provide the number of security breaches (electronic,cyber and physical) at NFC sites in the last 7 years,as under:
 - Year,Number of Breaches

Financial Statements

- PIO to provide the Annual report,P&L account and Balance Sheet of NFC w.r.t all its facilities in India for the latest FY available with NFC
- PIO to provide the segemental profitability of the different business segements of NFC (Equipments, Steel,Fuel Rods etc.) for the latest FY available with NFC

IAEA

- PIO to provide the list of the facilities and storage yards of NFC which are under the IAEA safeguards,as at 1st September,2020,as under:
 - Name of Facility,Year since which the said facility is under IAEA safeguards
 - If the entire NFC is under IAEA safeguards,the PIO can state so
- PIO to provide the dates of the inspections and surveys by IAEA inspectors in the last 5 years,as under
 - Year,Routine or Surprise inspection,Dates of inspection,sites inspected and names of inspectors
- PIO to confirm that it has the inspection reports of IAEA w.r.t NFC facilities, for the last 5 years,as under:
 - Year of IAEA inspection,Number of IAEA inspection reports submitted by IAEA in the custody of NFC (irrespective of whom it was addressed to)

Etc.

The CPIO/Administrative Officer, vide letter dated 29.09.2020 stated that *the information sought vide RTI application dated nil against IPO No. 52F-919852 is connected to various section/divisions in NFC and also other units of DAE providing any such information would disproportionately divert the resources of public authority. Therefore, you are requested to be more specific and precise about the information to be sought.*

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 05.10.2020. The FAA/Chief Administrative Officer vide order dated 19.11.2020 held as under:-

4. PIO appears to have generally replied by quoting that the information is diverse. It is informed to the applicant that Smt. Pushpa Rekha, AO-III was functioning as PIO during the absence of regular PIO viz., Shri G. Naveen Kumar, IRO who was infected with COVID-19 and was on leave on medical grounds from 31.08.2020 to 27.09.2020. After perusing the RTI application and reply, the following decision are conveyed.

- PIO is directed to seek inputs from the Vigilance Section, NFC relating to Sl.No.4 of RTI application under the head "Frauds" and provide relevant information subject to meeting the provisions for exemption under Section 8 of the RTI Act within 10 days.

- As regards the information sought by the applicant under the heading "Security Expenses", it is informed that the security of NFC is the responsibility of CISF. CISF is a security organization listed under Second schedule to the RTI Act for which the RTI Act is not applicable under section 24 of the Act. Hence, no information in this regard is provided.
- As regards information sought under head "Financial Statements", it is informed that NFC does not publish any Annual Report, P&L Account and Balance Sheet. Hence, no such information is available. As regards information sought on segmental profitability of the different business segments of NFC (Equipments, Steel, Fuel Rods etc) for the latest FY available with NFC, NFC is a Central Government establishment and not a commercial or PSU and hence, no such information is maintained.
- As regards, information sought under head "IAEA", it is informed that the subject information is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature of the country.
- With regard to information sought under head "Imported Uranium and trail of usage of imported content", the information sought is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature.
- As regards the information sought under the head "Natural and Enriched Uranium Fuel received by NFC", the information sought is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature.
- As regards information sought under the head "NFC Enrichment Facilities", the information sought is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature.
- As regards the information sought under the head "Despatch of Nuclear Fuel Bundles and Returns", the information sought is exempt from disclosure under Section 8(1)(a) as the information pertains to security / strategic, economic interest of the State.
- As regards the information sought under the head "Non-Nuclear Products sold by NFC", PIO is directed to seek information on non sensitive items sold by NFC to private sector enterprises and provide the same subject to meeting the disclosure norms under Section 8(1)(a) of RTI Act within 10 days.
- As regards information sought under the head "Costing", the information sought is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature.

- As regards information sought under the head “ ZOP” the information sought is exempt from disclosure under Section 8(1)(a) of RTI Act as the information is of security / strategic in nature.
 - As regards information sought under the head “Lok Sabha Queries” the information is available in public domain and the information can be accessed from the websites of Lok Sabha (www.loksabha.nic.in) and Department of Atomic Energy (www.dae.gov.in).
5. In the light of the above decision, the then PIO and APIO have been advised to be careful and specific while disposal of RTI application. The inconvenience caused to the applicant is regretted.
6. In view of the above reasons, the undersigned is ~~also~~ of the opinion that no personal hearing is warranted in this case. The Appeal is disposed off accordingly.

In compliance of the aforesaid order, the PIO sent a letter dated 04/05.12.2020 furnishing relevant information about “frauds” and “Non-nuclear products sold by NFC”.

Still aggrieved and dissatisfied, the Complainant approached the Commission with the instant Second Appeal.

A written submission has been received from the Complainant vide letter dated 09.06.2022 which has been taken on record

A written submission dated 09.06.2022 has also been received from the CPIO, Department of Atomic Affairs reiterating the aforesaid facts.

Written submissions have also been received from the following Respondents:

- i) 11.05.2022 regarding dates of inspection and surveys by IAEA inspectors in last 5 yrs.
- ii) 12.05.2022 regarding copy of the EOP laid down by NPCIL
- iii) 02.08.2022 ECIL's submissions furnishing point wise information
- iv) 10.05.2022 regarding case numbers being litigated by NPCIL as on end of FY 2021
- v) 04.08.2022 point wise reply of IREL

(2) CIC/NFCOM/C/2020/690922

The Complainant filed an RTI application dated Nil seeking information in respect of verification of Assets, verification of inventories, shortages and theft in stock, vigilance, contractors, etc.

Verifications of Assets

- PIO to provide the name of the independent professional agency and the professionals which did the physical verification of the assets of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Name of Agency, Name of Persons, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC
- PIO to provide the period in which the ENTIRE asset base of NFC was ACTUALLY physically verified and the block of period in which it was so physically verified, as an example, as under:
 - 100% verification in 3 years from FY 2015 to FY 2019
- PIO to provide the dates and the financial year in which the statutory auditor did a physical verification of the assets of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Dates of verification, Name of Agency, Name of Auditor, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC
- PIO to provide the dates and the financial year in which the internal auditor did a physical verification of the assets of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Dates of verification, Name of Agency, Name of Auditor, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC

Verifications of Inventories

- PIO to provide the name of the independent professional agency and the professionals which did the physical verification of the raw material, work in progress, stores and finished goods inventory of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Name of Agency, Name of Persons, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC
- PIO to provide the dates and the financial year in which the statutory auditor did a physical verification of the raw material, work in progress, stores and finished goods inventory of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Dates of verification, Name of Agency, Name of Auditor, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC
- PIO to provide the dates and the financial year in which the internal auditor did a physical verification of the raw material, work in progress, stores and finished goods inventory of NFC in the last 5 years, from FY 2015 to FY 2019, as under:
 - Year, Dates of verification, Name of Agency, Name of Auditor, Scope of Verification, Time taken for verification, Date of submission of verification report to NFC
- PIO to provide the procedure for the physical verification of the inventory of NFC from UO2, to the finished goods in the last 5 years, from FY 2015 to FY 2019

Shortages and Theft in Stock

- PIO to provide the details of the shortages in stock of NFC in the last 5 years, from FY 2015 to FY 2019, as detected by NFC or the auditors or professionals, as under:
 - Year, Nature of stock shortage (Materials, Finished Goods, WIP, Stores and Spares etc.), Name of SKU, Extent of shortage, Name of agency which detected the shortage
 - Year, Nature of Asset shortage (Machinery, Mining equipment etc.), Name of Asset, Extent of shortage, Name of agency which detected the shortage
- PIO to provide the details of the **THEFT AND PILFERAGES in URANIUM AND NUCLEAR DERIVATIVE stock** of NFC in **the last 20 years, from FY 2001 to FY 2019**, as detected by NFC or the auditors or professionals or law enforcement, as under:
 - Year, Nature of stock theft (MDU/SDU, UO2 etc.) Extent of theft, Name of agency which detected the theft, FIR No. and details of any subsequent recovery

Etc.

The CPIO/Administrative Officer, vide letter dated 29.09.2020 stated that: *the information sought vide RTI application dated nil against IPO No. 52F-919853 is connected to various section/divisions in NFC and also other units of DAE providing any such information would disproportionately divert the resources of public authority. Therefore, you are requested to be more specific and precise about the information to be sought.*

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 05.10.2020, which was duly adjudicated by the FAA vide order dated 19.11.2020 with the following observation:

5. It is seen from the records that Smt. Pushpa Rekha, AO-III was functioning as PIO during the absence of regular PIO viz., Shri G. Naveen Kumar, IRO who was infected with COVID-19 and was on leave on medical grounds. It is also noticed that there was no malafide intention on the part of the then PIO in not providing the information to the applicant. However, PIO and APIO have been cautioned to be careful while replying to RTI applications.

6. In view of the above reasons, the undersigned is also of the opinion that no personal hearing is warranted in this case. The Appeal is disposed off accordingly

The PIO, Purchase Officer sent a reply dated 09.12.2020 stating as under:

(1) Verification of Assets,
 (2) Verification of Inventories and
 (3) Shortages & Theft in Stock } Reply: As per Annexure enclosed

(4) Contractors: a to c
 Reply: NIL

(5) Contracting/Purchase Policy:
 Reply: (a) Tendering conditions are available on DPS website www.dpsdae.gov.in under Forms.
 (b) Not applicable
 (c) Not applicable
 (d) Not applicable
 (e) Yes – Available on DPS website i.e. www.dpsdae.gov.in under Forms – Contract Conditions.

A letter dated 03.12.2020 from the Stores Officer was sent to the Complainant containing information in respect of verification of assets, verification of inventories and shortages & theft in stock.

The PIO/Relations Officer vide letter dated 04/05.12.2020 furnished the information in respect of vigilance, contractors, contracting/purchasing policy and audits.

The PIO/Purchase Officer vide letter dated 09.01.2021 replied to the Complainant, in response to his email dated 18.12.2020 as under:-

SL.NO.	Information sought/Query raised	Reply to the query
1	The information provided is very light and darkish and after scanning, it will be unreadable, kindly send clear copy of reply.	We have already provided clear copy.
2	Is the verification for all NFC locations in India? Which specific locations were physically verified?	Not applicable to HRPSU

3	physically verified? Also, for verification of assets, you have not stated the block of years in which ALL THE ASSETS OF NFC ARE VERIFIED on a test check basis	HRPSU is concerned for Movable Capital and F&F items. Periodicity for the above is once in three years. Block year 2017-2019
4	Regarding the verification of inventories, you have covered only CONSUMABLES, which is the least by value in NFC. When was the uranium material verified from yellow cake to the end product? The applicant had asked for information on raw materials, WIP and Finished Goods.	Not applicable to HRPSU

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Second Appeal.

A written submission has been received from the Complainant vide letter dated 09.06.2022 and 31.08.2022 which has been taken on record.

A written submission dated 09.06.2022 has been received from the CPIO, Department of Atomic Affairs reiterating the aforesaid facts.

Facts emerging in Course of Hearing:

The Complainant participated in the hearing through video conference. He stated that the information sought was incorrectly denied to him with a malafide intention and that no opportunity of hearing was granted by the FAA. He also prayed for initiation of penal action against the erring officials, payment of compensation and requested to convert the instant Complaints into Second Appeals.

The Respondent represented by Shri G Naveen Kumar, IRO, D/o Atomic Energy, NFC, Hyderabad participated in the hearing through video conference. He stated that information as per available record was provided to the Complainant in both the cases in compliance with the order of the FAA despite the administrative difficulties faced due to the onset of the COVID 19 pandemic.

Decision:

Keeping in view the facts of the case and the submissions made by both the parties, the Commission observes that the instant matter is a Complaint filed u/s 18 of the RTI Act, 2005 where the Commission is only required to ascertain if the information has been denied with a malafide intent or due to an unreasonable cause which the Commission is unable to conclude in the present instance.

Hence, no further intervention of the Commission is required in the instant Complaints which are dismissed accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

